

Local Government (Ireland) (Order in Council).

DRAFT OF AN ORDER IN COUNCIL UNDER SECTION 62 OF THE LOCAL GOVERNMENT (IRELAND) ACT, 1898.

The day of 189 .

By the LORD LIEUTENANT and Privy Council of Ireland.

WHEREAS it is enacted by section sixty-two of the Local Government (Ireland) Act, 1898, that there shall apply to Ireland so much as the Lord Lieutenant, by Order in Council, declares applicable of the English and Scotch enactments specified in the Fourth Schedule to that Act, and the enactments amending the same, being enactments relating to matters in the said section mentioned.

And whereas it appears to us expedient that so much of the said enactments, as is set out in the schedule to this Order with the adaptations therein appearing should apply to Ireland.

Now therefore, We, the Lord Lieutenant-General and General Governor of Ireland, by virtue of the powers vested in us for that purpose as aforesaid, and of all other powers enabling us on that behalf, do declare, and it is hereby declared that—

- (1.) So much of the English and Scotch enactments specified in the Fourth Schedule to the Local Government (Ireland) Act, 1898, as is set out in the schedule to this Order, with such adaptations as appear in that schedule, is applicable to Ireland and is hereby applied accordingly.
- (2.) The application of each of the said enactments to Ireland shall come into force on the day in that behalf mentioned, and subject thereto on the appointed day, as if this Order were part of the Local Government (Ireland) Act, 1898.
- (3.) This Order may be cited as the Local Government (Application of Enactments) Order, 1898.

Given at the Council Chamber, Dublin Castle, this
day of 1898.

*Elections.***SCHEDULE.***General.*

General provisions as to adaptation and definitions.

1. In this Schedule, unless the context otherwise requires:—

(a.) The expression "the Act" shall mean the Local Government (Ireland) Act, 1898, and includes any order made under Part Six thereof; and expressions referring to the Act or to enactments in the Act, or to the passing of the Act, shall be construed to include a reference to such Order or to provisions of such Order, or to the making of such Order.

(b.) Other expressions shall, subject to the express provisions in this Schedule, have the same meaning as in the Act.

L. G. Act,
1898, s. 106.

(c.) The expression "property" includes all property, real and personal, and all estates, interests, easements, and rights, whether equitable or legal, in, to, and out of property real and personal, including things in action, and registers, books, and documents; and when used in relation to any grand jury, board, sanitary authority, or other authority, includes any property which on the appointed day belongs to, or is vested in, or held in trust for, or would but for the Act have, on or after that day, belonged to, or been vested in, or held in trust for such grand jury, board, sanitary authority, or other authority.

(d.) The expression "liabilities" includes liability to any proceeding for enforcing any duty or for punishing the breach of any duty, and includes all debts and liabilities to which any authority are or would but for the Act be liable or subject to, whether accrued due at the date of the transfer or subsequently accruing, and includes any obligation to carry or apply any money to any sinking fund or to any particular purpose; and includes all liabilities imposed by or arising under any local and personal Act.

(e.) The expression "expenses" includes costs and charges:

(f.) The expression "costs" includes charges and expenses:

L. G. Act,
1894, s. 75.

(g.) The expression "election" includes both the nomination and the poll.

(h.) The expression "local and personal Act" includes a Provisional Order confirmed by an Act and the Act confirming the Order.

Provision as to
Sundays and
Bank Holidays.
L. G. Act,
1894, s. 75.

2. When the day on which anything is required by or in pursuance of the Act to be done is Sunday, Christmas Day, or Good Friday, or a Bank Holiday, that thing shall be done on the next following day not being one of the days above-mentioned.

Elections.

Removal of
disqualification
of married
women.
L. G. Act,
1894, s. 43.

3. For the purposes of the Act a woman shall not be disqualified by marriage for being on any local government register of electors, or for being an elector of any local authority, provided that a husband and wife shall not both be qualified in respect of the same property.

Elections.

4.—(1.) The election of county and urban and rural district councillors and of aldermen in boroughs and of guardians in boroughs or urban county districts shall, subject to the provisions of the Act, be conducted according to rules framed under this Order by the Local Government Board.

(2.) The Rules so framed shall, notwithstanding anything in any other Act, have effect as if enacted in the Act, and shall provide, amongst other things—

Elections,
poll.
L.G. Act, 1894,
ss. 25(3),
28(1), 24(4).
L.G. Act, 1894,
s. 48(3) to
(5).

- (a) for every candidate being nominated in writing by two local government electors as proposer and seconder and no more;
- (b) for preventing an elector at an election of a council for a county, county borough, or district, or of guardians for an electoral division in an urban district, from subscribing a nomination paper or voting—
 - (i) in more than one county electoral division as respects the council for a county; or,
 - (ii) in more than one ward as respects the council for a county borough, or urban district; or,
 - (iii) in more than one district electoral division as respects the council for a rural district or;
 - (iv) in the case of an election of guardians for a district electoral division in a county borough or urban county district, both in that electoral division and also in any other electoral division in the same union, whether for guardian or district councillor;
- (c) for fixing or enabling the county council to fix the day of the poll and the hours during which the poll is to be kept open, so, however, that the poll shall always be open between the hours of six and eight in the evening;
- (d) for the polls at elections held at the same date and in the same area being taken together, except where this is impracticable;
- (e) for the appointment of returning officers for the elections.

(3.) At every election regulated by rules framed under this Order, the poll shall be taken by ballot, and the Ballot Act, 1872, and the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, and sections fifty-six, seventy-four and seventy-five and Part IV. of the Municipal Corporations Act, 1882, as amended by the last-mentioned Act (including the penal provisions of those Acts) shall, subject to adaptations, alterations, and exceptions made by such rules, apply in like manner as in the case of a municipal election. Provided that—

ss. 2 & 26 Vict.
c. 53.
47 & 48 Vict.
c. 70.
45 & 46 Vict.
c. 50.

- (a) section six of the Ballot Act, 1872, as modified by section seventeen of that Act, shall apply in the case of such elections, and the returning officer may, in addition to using the schools and public rooms therein referred to free of charge, for taking the poll, use the same, free of charge, for hearing objections to nomination papers and for counting votes; and
- (b) section thirty-seven of the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, shall apply as if the election were an election mentioned in the First Schedule to that Act.

Election.

Munic. Corp.
Act, 1882,
s. 65.

(4) If a person is elected councillor or alderman in more than one ward of a borough or councillor in more than one county electoral division of a county or district electoral division of a rural district, or both district councillor and guardian in the same union, he shall within three days after notice of the election, choose by writing signed by him and delivered to the town clerk or secretary or clerk of the council or board of guardians, or in his default the chairman of the council or board shall within three days after the time of choice has expired, declare for which of those wards or divisions he shall serve, and the choice or declaration shall be conclusive.

L. G. Act,
1894, s. 40(2).

(5.) Any ballot boxes, fittings, and compartments provided by or belonging to any public authority, for any election (whether parliamentary, county council, municipal, or other), shall, on request, and if not required for immediate use by the said authority, be lent to the returning officer for an election under the Act, upon such conditions and either free of charge or except in the prescribed cases, for such reasonable charge as may be prescribed.

Costs of
elections.
L. G. Act,
1894, s. 42 (7).

5.—(1.) The expense of any election under the Act shall not exceed the scale fixed by the county council with the approval of the Local Government Board, and in the case of the first election under the Act the Local Government Board may frame a scale for the county, and the scale so framed shall apply to the first election, and shall have effect as if it had been made by the county council with the said approval.

L. G. Act,
1888, s. 75(17).

(2.) All costs properly incurred in relation to the holding of elections of councillors and aldermen of county or district councils, or of guardians in county boroughs and urban county districts, so far as not otherwise provided for by law, shall be paid—

(a) in the case of councillors of a county at large out of the county fund as county at large charges; and

(b) in the case of councillors or aldermen of a county borough, or of any other borough, or of councillors of an urban or rural county district and of guardians in a county borough or an urban county district, out of the borough or district fund of the borough or district, as the case requires.

L. G. Act,
1888, s. 75(18).

(3.) A county council shall, on the request of the returning officer, prior to a poll being taken at any election of a councillor of such council, advance to him such sum not exceeding ten pounds for every thousand electors at the election as he may require.

L. G. Act,
1888, s. 75(19).
82 & 50 Vict.
s. 54, m. 4-7.

(4.) Within twenty-one days after the day on which the return is made of the persons elected at an election under the Act, the returning officer shall transmit to the county or urban or rural district council, as the case requires, a detailed account showing the amounts of all charges claimed by the returning officer, in respect of the election. He shall annex to the account a notice of the place where the vouchers relating to the account may be seen, and he shall at all reasonable times and without charge allow the council or any agent of such council, to inspect and take copies of the vouchers.

(5.) The returning officer shall not be entitled to any charges which are not duly included in his account.

(6.) If the council objects to any part of the claim, they may, at any time within one month from the time when the account is transmitted to them apply for a taxation of the account to the County Court having jurisdiction at the place of nomination for the election, and the court shall have jurisdiction to tax the account in such manner and at such time and place as the court thinks fit, and finally to determine the amount payable to the returning officer and to give and enforce judgment for the same as if such judgment were a judgment in an action in such court, and with or without costs at the discretion of the court.

Elections.

(7.) The court may deputo any of its powers or duties under this Article to the registrar or other principal officer of the court.

(8.) Every person having any claim against a returning officer for work, labour, materials, services, or expenses in respect of any contract made with him by or on behalf of the returning officer for the purposes of an election under the Act, shall, within fourteen days after the day on which the return is made of the person or persons elected at the election, transmit to the returning officer the detailed particulars of such claim in writing, and the returning officer shall not be liable in respect of anything which is not duly stated in such particulars.

L. G. Act,
1888, s. 75(19).
38 & 39 Vict.
c. 84, s. 5.

(9.) There shall be added to every notice of election to be published under the provisions of the Ballot Act, 1872, the notification following with respect to claims against returning officers; namely—

L. G. Act,
1888, s. 75(18).
38 & 39 Vict.
c. 84, s. 7.

Take notice, that every person having any claim against a returning officer for work, labour, material, services, or expenses in respect of any contract made with him by or on behalf of the returning officer, for the purposes of an election shall, within fourteen days after the day on which the return is made of the person or persons elected at the election, transmit to the returning officer the detailed particulars of such claim in writing, and the returning officer shall not be liable in respect of anything which is not duly stated in such particulars.

(10.) Where application is made for taxation of the accounts of a returning officer, he may apply to the said County Court to examine any claim transmitted to him by any person in pursuance of this Article, and the court after notice given to such person, and after hearing him, and any evidence tendered by him, may allow or disallow, or reduce the claim objected to, with or without costs, and the determination of the court shall be final for all purposes, and as against all persons.

L. G. Act,
1888, s. 75(19).
38 & 39 Vict.
c. 84, s. 6.

(11.) It shall be the duty of the returning officer, so far as is practicable, to make use of ballot boxes, fittings, and compartments mentioned in Article four, and the court, upon taxation of his accounts, shall have regard to this obligation.

(12.) The judge or officer by whom any account or claim is taxed or examined under this Article shall deliver to the returning officer and to the other party to the taxation or examination, a certificate showing the items and amounts allowed or disallowed, with a copy of any order or judgment made thereon.

L. G. Act,
1888, s. 75(19).
38 & 39 Vict.
c. 84, s. 1.

Elections.

(13.) Either party may, within seven days of the delivery to him of such certificate, give notice in writing to the said judge or officer of intention to appeal, specifying in the notice the items and amounts in respect of which he intends to appeal.

(14.) The said judge or officer shall thereupon forthwith transmit to such taxing officer of the High Court as is directed by rules of court, the said account or claim, with any vouchers relating thereto, the certificate and the notice of appeal; and such taxing officer shall forthwith proceed to review the taxation or examination in the usual manner, or in such manner as may be directed by rules of court, and shall, if required, receive evidence in relation to the matters in dispute, and may confirm or vary the certificate, and direct by whom all or any part of the costs of review are to be paid, and shall return the certificate as confirmed or varied to the said judge or officer with any such direction, and effect shall be given to a certificate as so confirmed or varied, and to any such direction, as if the same had been a judgment of the County Court.

(15.) Any taxation or review of taxation under this Article shall be subject to appeal to the High Court in like manner as any ordinary taxation of costs is now subject.

Power of
Local Govern-
ment Board
or county
council to
remove
difficulties as
to elections
or to order new
elections where
council unable
to act.
L. G. Act,
1894, s. 48(5).
L. G. (Elec-
tions) Act,
1920, s. 1.

6.—(1.) If any difficulty arises as respects the election of any individual councillor, alderman, or guardian, and there is no provision for holding another election, then, in the case of a county councillor, or of an alderman of a county borough, the Local Government Board, and in any other case the county council, may order a new election to be held and give such directions as may be necessary for the purpose of holding the election.

(2.) If any difficulty arises with respect to any election of county or district councillors or of aldermen or of guardians, or to the first meeting after any ordinary triennial election of county or rural district councillors or guardians, or if, from an election not being held, or being defective, or otherwise, any council or board has not been properly constituted, then in the case of a county council the Local Government Board, and in any other case the county council, may by order make any appointment or do anything which appears to them necessary or expedient for the proper holding of any such election or meeting, and properly constituting the council or board, and may, if it appears to them necessary, direct the holding of an election or meeting, and fix the dates for any such election or meeting.

(3.) Any such order may modify the provisions of the Act, and the enactments applied by, or rules framed under, the Act, so far as may appear to the Local Government Board or county council necessary or expedient for carrying the order into effect.

L. G. Act, 1894,
s. 50(2).

(4.) A county council may delegate their powers under the foregoing provisions of this Article to a committee.

(5.) If any district or county council, other than a borough council, becomes unable to act, whether from failure to elect or otherwise, then in the case of a county council the Local Government Board, and in any other case the

county council of the county in which the district is situate, may order elections to be held, and may appoint persons to form the district or county council until the newly elected members come into office.

Acceptance of office, &c.

Acceptance of Office, Fine, Resignation, Casual Vacancy, &c.

7. In this Order "corporate office in a county council" means the office of councillor of a council of a county at large, and "corporate office in a council or board," means a corporate office in a county council, and also the office of councillor of a council of an urban county district not a borough or of a rural district and the office of a guardian, and of the chairman or vice-chairman of any such county or district council or of a board of guardians.

Definition of a corporate office.
Munic. Corp. Act, 1882, s. 7.
L. G. Act, 1888, s. 73.

8. (1).—Every qualified person elected or chosen to a corporate office in a council or board, unless exempt under this Article or otherwise by law, either shall accept the office by making and subscribing the declaration required by this Order within ten days after notice of election, or shall in lieu thereof, be liable to pay to the council or board a fine of such amount not exceeding fifty pounds, and in case of a chairman or vice-chairman one hundred pounds, as the council or board by byelaw, made in accordance with the enactments relating to the making of byelaws by such council or board, or if there is no such enactment, made with the approval of the Local Government Board, determine.

Obligation to accept office or pay fine, and declaration on acceptance of office.
Munic. Corp. Act, 1882, s. 24.
L. G. Act, 1888, s. 73 (14).

(2.) If there is no byelaw determining fines, the fine, in case of a councillor or guardian, shall be twenty-five pounds, and in case of a chairman or vice-chairman, fifty pounds.

(3.) The persons exempt under this section are—

- (a.) any person disabled by lunacy or imbecility of mind, or by deafness, blindness, or other permanent infirmity of body; and
- (b.) any person who, being above the age of sixty-five years, or having within five years before the day of his election either served the office or paid the fine for non-acceptance thereof, claims exemption within five days after notice of his election.

(4.) A fine payable under this Article shall be recoverable on conviction before a court of summary jurisdiction.

(5.) A person elected or chosen to a corporate office in a council or board shall not, until he has made and subscribed before two members or the secretary or clerk of the council or board a declaration as herein-after mentioned, act in the office except in administering that declaration. The said declaration is as follows:—

Munic. Corp. Act, 1882, s. 25.

I, A.B., having been chosen chairman [or vice-chairman, or councillor] for the _____ of _____, hereby declare that I take the said office upon myself, and will duly and faithfully fulfil the duties thereof according to the best of my judgment and ability.

Munic. Corp. Act, 1882, Sch. VIII.

*Acceptance
of office, &c.*

County
Councils
(Elections)
Act, 1891, s. 5.

(6.) The said declaration by a person elected or chosen to a corporate office in a county council may be made at any time within three months after notice of the election, and may be made either in the manner above-mentioned or before any justice of the peace or commissioner to administer oaths in the Supreme Court of Judicature.

Fine on
resignation,
disqualification
by absence,
&c.
Munic. Corp.
Act, 1882,
s. 84.
L.G. Act, 1894,
s. 49(4)(a).

9.—(1.) A person elected or chosen to a corporate office in a council or board may at any time by writing signed by him and delivered to the secretary or clerk of the council or board, resign the office, on payment of the fine provided for non-acceptance thereof :

Provided that this enactment shall not apply to guardians, and district councillors for a rural district shall be in the same position with respect to resignation as members of a board of guardians.

(2.) In any such case of resignation under the foregoing power to resign, the council shall forthwith declare the office to be vacant, and signify the vacancy by notice in writing, signed by three members of the council and countersigned by the secretary or clerk of the council, and notified in such manner as the council direct, and the office shall thereupon become vacant.

Munic. Corp.
Act, 1884,
s. 86 (4).

(3.) Where a person becomes disqualified by absence for holding a corporate office in a council or board, he shall be liable to the same fine as for non-acceptance of office, recoverable on conviction before a court of summary jurisdiction, but the disqualification shall, as regards subsequent elections, cease on his return.

Re-eligibility
of office
holders,
casual
vacancies, and
acting of
unqualified
persons in office.
Munic. Corp.
Act, 1882, s. 87,
s. 49(1), (2).

10.—(1.) A person ceasing to hold a corporate office in a council or board shall, unless disqualified to hold the office, be re-eligible.

(2.) The person elected or chosen to fill a casual vacancy in a corporate office in a council or board, shall hold the office until the time when the person in whose place he is elected would regularly have gone out of office, and he shall then go out of office.

(3.) In the case of every corporate office in a council or board, non-acceptance of office by a person elected or chosen creates a casual vacancy.

Munic. Corp.
Act, 1885,
s. 41.

(4.) If any person acts in a corporate office in a council or board without having made the declaration by this Order required, or without being qualified at the time of making the declaration, or after ceasing to be qualified, he shall for each offence be liable to a fine not exceeding fifty pounds, recoverable by action.

(5.) A person being in fact registered in the local government register of electors shall not be liable to a fine for acting in a corporate office in a council or board on the ground only that he was not entitled to be registered therein.

Munic. Corp.
Act, 1885,
s. 42 (1).

(6.) The acts and proceedings of a person in possession of a corporate office in a council or board, and acting therein, shall, notwithstanding his disqualification or want of qualification, be as valid and effectual as if he had been qualified.

*Disqualifications.**Disqualifications.*

Disqualifications for being councillor or guardian, and of councillor or guardian, and their partner for office.
 L.G. (Scott.) Act, 1889, s. 9 (1).
 L.G. Act, 1894, ss. 20 (5), 21 (2), 24 (4).
 L.G. (Scott.) Act, 1899, s. 32 (3).
 L.G. Act, 1894, s. 46.

11.—(1.) No woman shall be eligible for election or being chosen as a county councillor.

(2.) No person shall be disqualified by sex or marriage for being elected or chosen, or being, a guardian or councillor of a rural or urban district other than a borough.

(3.) It shall not be lawful to appoint a member of a county or district council or board of guardians or the partner in business of any such member to any office or place of profit under the council or board, and the disqualification shall apply to any person and his partners in business during six months next after such person has ceased to be such member.

(4.) A person shall be disqualified for being elected or chosen or being a member of a council of a county or of a district or of a board of guardians if he—

- (a) is an infant or an alien ; or
- (b) has within twelve months before his election, or since his election, received union relief ; or
- (c) has, within five years before his election, or since his election, been convicted either on indictment or summarily of any crime, and sentenced to imprisonment with hard labour without the option of a fine, or to any greater punishment, and has not received a free pardon, or has, within or during the time aforesaid, been adjudged bankrupt, or made a composition or arrangement with his creditors ; or
- (d) holds any paid office or place of profit under or in the gift or disposal of the council or board, as the case may be, other than that of mayor or sheriff ; or
- (e) is concerned by himself or his partner in any bargain or contract entered into with the council or board, or participates by himself or his partner in the profit of any such bargain or contract or of any work done under the authority of the council or board.

Munic. Corp. Act, 1835, s. 19 (1) (a).
 Munic. Corp. Act, 1882, s. 19 (1) (a).

(5.) Provided that a person shall not be disqualified for being elected or chosen or being a member of any such council or board by reason of being, by himself or his partner, interested—

- (a) in the sale or lease of any lands or in any loan of money to the council or board, or in any contract with the council or board for the supply from land, of which he is owner or occupier, of stone, gravel, or other materials for making or repairing highways or bridges, or in the transport of materials for the repair of roads or bridges in his own immediate neighbourhood ; or
- (b) in any newspaper in which any advertisement relating to the affairs of the council or board is inserted ; or
- (c) in any contract with the council or board as a shareholder in any joint stock company.

*Disqualifi-
cations.*

(6.) Where a person is disqualified by being adjudged bankrupt or making a composition or arrangement with his creditors, the disqualification shall cease, in case of bankruptcy, when the adjudication is annulled, or when he obtains his discharge with a certificate that his bankruptcy was caused by misfortune without any misconduct on his part, and, in case of composition or arrangement, on payment of his debts in full.

(7.) A person disqualified for being a guardian shall also be disqualified for being a rural district councillor.

L.G. Act, 1888,
s. 75 (14).

(8.) If a member of a council of a county or district, or of a board of guardians, is absent from meetings of the council or board for more in the case of a county council than twelve months, and in the case of a district council or board than six months consecutively, except in case of illness or for some reason approved by the council or board, his office shall on the expiration of those months become vacant.

(9.) Where a member of a council or board of guardians becomes disqualified for holding office, or vacates his seat for absence, the council or board shall forthwith declare the office to be vacant, and signify the vacancy by notice signed by three members and countersigned by the secretary or clerk of the council or board, and notified in such manner as the council or board direct, and the office shall thereupon become vacant.

(10.) If any person acts when disqualified, or votes when prohibited under this Order, he shall for each offence be liable on summary conviction to a fine not exceeding twenty pounds.

Incorporation.

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Incorporation
of county
and district
councils.
L.G. Act, 1884,
s. 24 (7).

Incorporation of County and District Councils.

12. (1.)—Every county or urban or rural district council which is not the council of a borough shall be a body corporate by the name of the county or urban or rural district council, with the addition of the name of the county or district, or if there is any doubt as to the latter name, of such name as the Local Government Board direct, and shall have perpetual succession and a common seal and may hold land for the purposes of their powers and duties.

L.G. Act, 1888,
s. 19 (3).

(2.) Where any enactment (whether relating to lunatic asylums or public works or other county purposes, or to grand juries), requires or authorises land to be conveyed or granted to, or any contract or agreement to be made in the name of, the secretary of the grand jury, clerk of the peace, or any board, commissioners, or other person, on behalf of a county or any part thereof, such land shall be conveyed or granted to, and such contract and agreement shall be made with, the council of the county concerned.

Change of
name of
district council.
L.G. Act,
1884, s. 25, (8)
to (5).

13.—(1.) Any district council may, with the sanction of the county council, change their name and the name of their district.

(2.) Every change of name so made shall be published in such manner as the authority authorising the change may direct, and shall be notified to the Local Government Board.

(3.) Any such change of name shall not affect any rights or obligations of any district, council, authority, or person, or render defective any legal proceedings, and any legal proceedings may be continued or commenced as if there were no change of name.

Incorporation.
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Property and Expenses.

Property and Expenses.

14.—(1.) On and after the appointed day all property of the grand jury of a county, or held by the secretary to the grand jury, or any justices or treasurer of a county, or board or commissioners, or otherwise for any public uses and purposes of a county, or any barony or other division thereof, shall pass to and vest in and be held in trust for the council of the county subject to all debts and liabilities affecting it, and shall be held by the county council for the same estate, interest, and purposes, and subject to the same covenants, conditions, and restrictions, for and subject to which that property is or would have been held if the Act had not passed, so far as those purposes are not modified by the Act. Provided that—

Transfer of county property and liabilities.
L.G. Act, 1888, s. 64 (1)
(2) (3).

(a) the existing records of or in the custody of the court of quarter sessions, or, except so far as they relate to the business transferred by the Act to county councils, of the court of assize, shall, subject to any order of the court, remain in the same custody in which they would have been if the Act had not passed; and

(b) the grand jury of any county may retain any pictures, chattels, or property on the ground that the same have been presented to them or purchased out of their own funds or otherwise belong to them, and are not held for public purposes of the county, and any difference arising between the county council and the grand jury with respect to any such retention shall be referred to and determined by the Local Government Board under the Act.

(2.) On and after the appointed day all debts and liabilities of the grand jury, or of the secretary to the grand jury, or any justices, treasurer, board, or commissioners, incurred for county purposes, shall become debts and liabilities of the county council, and shall, subject to the provisions of the Act, be defrayed by them out of the like property and funds out of which they would have been defrayed if the Act had not passed.

(3.) The county council shall have full power to manage, alter, and enlarge, and, with the consent of the Local Government Board, to alienate any land or buildings transferred by virtue of the Act, or otherwise vested in the council.

(4.) Where the county council, with the consent of the Local Government Board, sell any land and buildings, the proceeds of such sale shall be applied in such manner as the said Board sanction towards the discharge of any loan of the council, or otherwise for any purpose for which capital may be applied by the council.

L.G. Act, 1888,
s. 65 (5).

*Property
and
Expenses.*

(5.) Where the district of a lunatic asylum comprises two or more counties, the foregoing provisions of this Article shall apply with the necessary modification to those counties and to the councils thereof, and the property shall be the joint property of those councils.

*Transfer of
property from
one authority
to another.*
L.G. Act, 1888,
s. 45.

15. In any case to which the last foregoing Article does not apply, where any powers and duties are transferred by the Act from one authority to another authority—

- (1.) All property held by the first authority for the purpose or by virtue of such powers and duties shall pass to and vest in the other authority, subject to all debts and liabilities affecting the same; and
- (2.) The latter authority shall hold the same for the estate, interest, and purposes, and subject to the covenants, conditions, and restrictions for and subject to which the property would have been held if the Act had not passed, so far as the same are not modified by or in pursuance of the Act; and
- (3.) All debts and liabilities of the first authority incurred by virtue of such powers and duties shall become debts and liabilities of the latter authority, and be defrayed out of the like property and funds out of which they would have been defrayed if the Act had not passed.

*Keeping of
county council
accounts so
as to charge
expenditure
to proper area.*
L.G. Act, 1888,
s. 48 (7) (8).

16.—(1.) The county council shall keep such accounts as will prevent the whole county from being charged with expenditure properly payable by a portion only of the county, and will prevent any sums raised in a portion only of the county being applied in reduction of expenditure properly payable by the whole or a larger part of the county and will prevent any sums by law specifically applicable to any particular purpose from being applied to any other purpose.

(2.) In determining the amount of expenditure for any particular purpose, whether a county at large or district charge, a proper proportion of the cost of the officers and buildings and establishments of the county council may be added to the expenditure directly expended for that purpose.

(3.) This Article does not apply to a county borough.

*Payment out
of county or
rural district
fund and
sanction con-
sultation of
county council.*
L.G. Act, 1888,
s. 50(1) to (3).

17.—(1.) All payments to and out of the county or rural district fund shall be made to and by the county or rural district treasurer, and all payments out of the fund shall, unless made in pursuance of the specific requirement of the Act or any other Act of Parliament or of an order of a competent court, be made in pursuance of an order of the council signed by three members present at the meeting of the council and countersigned by the secretary or clerk of the council, and the same order may include several payments.

(2.) Any such order may be removed into the High Court of Justice by writ of certiorari, and may be wholly or partly disallowed or confirmed on motion and hearing with or without costs, according to the judgment and discretion of the court.

(3.) Every county council shall from time to time appoint a finance committee for regulating and controlling the finance of their county and an order for the payment of a sum out of the county fund, whether on account of capital or income, shall not be made by a county council, except in pursuance of a resolution of the council passed on the recommendation of the finance committee.

*Property
and
Expenses.*

(4.) This Article does not apply to a county borough.

Accounts, Audit, and Annual Budget.

*Accounts,
Audit,
and Annual
Budget.*

Making up
and audit of
accounts
under Act of
county and
district
councils and
inspection.
L.G. Act, 1894,
s. 32.
L.G. Act, 1897,
s. 73 (2).

18.—(1.) The accounts of the receipts and payments of county and district councils in respect of the poor rate or otherwise of their duties under the Act and of the committees and officers of those councils, shall be made up yearly to the thirty-first day of March (in this Order referred to as the local financial year), or in the case of accounts which are required to be audited half-yearly, then half-yearly to the thirtieth day of September and the thirty-first day of March in each year, and in such form as the Local Government Board prescribe.

(2.) All enactments relating to accounts of local authorities, or the audit thereof, or to returns touching their receipts and expenditure, or to meetings, or other matters, shall be modified so far as is necessary for adapting them to the provisions of this Article, and the Local Government Board shall from time to time give such orders and make such arrangements as appear to the Board to be necessary or proper for effecting such adaptation, and giving effect to the provisions of this Article.

(3.) The accounts of all the receipts and payments of every county and district council, and their committees and officers, shall be audited by such auditor as is provided by section eleven of the Local Government (Ireland) Act, 1871, and sections eleven to eighteen of that Act as amended by any subsequent enactment (including the provisions of those sections which impose penalties or provide for the recovery of sums) shall apply accordingly, except that in the case of the accounts of receipts or payments in respect of the poor rate, or money raised by the poor rate, and of all receipts and payments of the council of a county at large and their committees and officers, the audit shall be half-yearly instead of yearly.

84 & 85 Vict.
c. 106.

(4.) The Local Government Board may, with respect to any audit to which this Article applies, make rules modifying the enactments as to publication of notice of the audit and of the abstract of accounts and the report of the auditor.

(5.) Every local government elector in a county or county district may, at all reasonable times, without payment, inspect and take copies of and extracts from all books, accounts, and documents belonging to or under the control of the council of the county or district.

(6.) The treasurer shall within one month from the date to which he is required to make up his accounts in each year or half year, submit them with the necessary vouchers and papers to the auditors and they shall audit them.

Munic. Corp.
Act, 1882,
s. 37 (1).

Returns to
Local Govern-
ment Board.
Manc. Corp.
Act, 1888,
s. 25, sub-
s. (1), (3) to (4).

19.—(1.) The secretary of the county council and the town clerk or clerk of every urban and rural district council shall make a return to the Local Government Board of the receipts and payments to which the preceding Article applies for each local financial year.

(2.) The return shall be in such form and contain such particulars as the Local Government Board from time to time direct.

(3.) The return shall be sent to the Local Government Board within one month after the completion of the audit, or if the audit is half-yearly, the audit for the second half of each financial year.

(4.) If the said secretary or town clerk or clerk fails to make any return required under this Article, he shall for each offence be liable to a fine not exceeding twenty pounds to be recovered by action on behalf of the Crown in the High Court.

(5.) The Local Government Board shall in each year prepare an abstract of the returns made in pursuance of this Article, under general heads, and it shall be laid before both Houses of Parliament.

Annual budget
of county
councils.
L.G. Act, 1888,
s. 34.

20.—(1.) At the beginning of every local financial year, every county council shall cause to be submitted to them an estimate of the receipts and expenses of such council during that financial year, whether on account of property, rates, loans, or otherwise.

(2.) The council shall estimate the amount which will require to be raised in the first six months and in the second six months of the said financial year by means of rates.

(3.) If at the expiration of the first six months of such financial year it appears to the council that the amount of the rate estimated at the commencement of the year will be larger than is necessary or will be insufficient, the council may revise the estimate and alter accordingly the amount of the rate.

(4.) This Article does not apply to the council of a county borough except as regards their receipts and expenses as a county council.

Borrowing.

Borrowing by County Councils.

Borrowing
by county
council.
L.G. Act, 1888,
s. 49 (1) to (9).

21.—(1.) The county council may from time to time, with the consent of the Local Government Board, borrow, on the security of the county fund, and of any revenues of the council, or on either such fund or revenues, or any part of the revenues, such sums as may be required for the following purposes, or any of them; that is to say,—

- (a) for consolidating the debts of the county; and
- (b) for purchasing any land or building any building which the council are authorised by any Act to purchase or build; and
- (c) for any permanent work or other thing which the county council are authorised to execute or do, and the cost of which ought, in the opinion of the Local Government Board, to be spread over a term of years; and

- (d) for any purpose for which the county council are authorised by any Act to borrow or the cost of which the grand jury were authorised by any Act to spread over a period of years; *Borrowing.*

but neither the transfer of powers by the Act, nor anything else in the Act shall confer on the county council any power to borrow without the consent above mentioned, and that consent shall dispense with the necessity of obtaining any other consent which may be required by the Acts relating to such borrowing, and the Local Government Board, before giving their consent, shall take into consideration any representation made by any ratepayers or owner of property rated to the poor rate.

(2.) Provided that where the total debt of the county council, after deducting the amount of any sinking fund, and any amount directed by the Act to be excluded from calculation, exceeds, or if the proposed loan is borrowed, will exceed, one tenth of the annual rateable value of the rateable property in the county, money shall not, except where this limit is excluded by the Act, be borrowed, except in pursuance of a provisional order made by the Local Government Board and confirmed by Parliament.

(3.) A county council may also from time to time, without any consent of the Local Government Board, during the period which was fixed for the discharge of any loan raised by them under the Act or transferred to them by the Act, borrow on the like security such amount as may be required for the purpose of paying off the whole or any part of such loan, or if any part of such loan has been repaid otherwise than by capital money, for re-borrowing the amount so repaid, and for the purpose of this Article "capital money" includes any instalments, annual appropriations, and sinking fund and the proceeds of the sale of land or other property, but does not include money previously borrowed for the purpose of repaying a loan.

(4.) All money re-borrowed shall be repaid within the period fixed for the discharge of the original loan, and every loan for re-borrowing shall for the purpose of the ultimate discharge be deemed to form part of the same loan as the original loan, and the obligations of the council with respect to the discharge of the original loan shall not be in any way affected by means of the re-borrowing.

(5.) A loan under this Article shall be repaid within such period, not exceeding thirty years, as the county council, with the consent of the Local Government Board, determine in each case.

(6.) The county council shall pay off every loan either by equal yearly or half yearly instalments of principal, or of principal and interest combined, or by means of a sinking fund set apart, invested, and applied in accordance with regulations made by the Local Government Board.

(7.) Where a loan is raised for any purpose, the cost of which is not a county-at-large charge, the council shall take care that the same payable in respect of the loan are charged to the account to which the expenditure for that purpose is chargeable.

Borrowing.

(8) Where the county council are authorised to borrow any money on loan, they may raise such money either as one loan or several loans, and either by stock issued under the Act, or if special reasons exist for so borrowing, by mortgage, in accordance with sections two hundred and forty and two hundred and forty-one of the Public Health (Ireland) Act, 1878.

41 & 42 Vict.
c. 52.

(9) Provided that where a county council have borrowed by means of stock they shall not borrow by way of mortgage except for a period not exceeding five years.

(10) This Article shall not apply to county boroughs when acting otherwise than in their capacity as a county council.

Issue of
county stock.
L. G. Act,
1888, s. 70.

22.—(1.) County stock may be created, issued, transferred, dealt with, and redeemed in such manner and in accordance with such regulations as the Local Government Board may from time to time prescribe.

(2) Without prejudice to the generality of the above power, such regulations may provide for the discharge of any loan raised by such stock, and in the case of consolidation of debt for extending or varying the times within which loans may be discharged, and may provide for the consent of limited owners, and for the application of the Acts relating to stamp duties and to cheques, and for the disposal of unclaimed dividends, and may apply for the purposes of this Article, with or without modifications, any enactments relating to stock issued by the corporation of any municipal borough in England.

(3) Such regulations shall be laid before each House of Parliament for not less than thirty days during which the House sits, and if either House during such thirty days resolves that such regulations ought not to be proceeded with, the same shall be of no effect, without prejudice nevertheless to the making of further regulations.

(4) If no such resolution is passed it shall be lawful for the Lord Lieutenant in Council to confirm such regulations, and the same when so confirmed shall be deemed to have been duly made and to be within the powers of the Act, and shall be of the same force as if they were enacted in the Act.

*Transfer of
Powers.**Transfer of Powers from Treasury.*

Adaptation of
s. 4 & 5 Vict.
c. 105, as to
corporate
property and
liabilities
L. G. Act,
1888, s. 72.

23. The Local Government Board shall exercise as regards any county borough, or other borough, the powers conferred by the Municipal Corporations (Ireland) Act, 1846, relating to corporate property and liabilities, as respects the approval of loans and of the alienation of property, and other matters therein mentioned, and those Acts shall, as respects any transactions commenced after the appointed day, be construed as if "Local Government Board" were throughout those Acts substituted for "Treasury."

*Boundaries and Adjustment.**Boundaries and Adjustment.*

Pastor alteration of boundaries.
L. G. Act, 1888, s. 54, subss. (1), (2), (4).

24.—(1.) Whenever it is represented by the council of any county or borough to the Local Government Board—

- (a) that the alteration of the boundary of any county or borough is desirable; or
- (b) that the union, for the purposes of the Act, of a county borough with a county is desirable; or
- (c) that the union, for the purposes of the Act, of any counties or boroughs or the division of any county is desirable; or
- (d) that the alteration of the boundary of any county electoral division or of the number of county councillors and county electoral divisions is desirable; or
- (e) that the alteration of any area of local government partly situate in their county or borough is desirable;

the Local Government Board shall, unless for special reasons they think that the representation ought not to be entertained, cause to be made a local inquiry, and may make an order for the proposal contained in such representation, or for such other proposal as they may deem expedient, or may refuse such order, and if they make the order may by such order divide or alter any county electoral division.

(2.) Provided that if the order alters the boundary of a county or borough, or provides for the union of a county borough with a county, or for the union of any counties or boroughs, or for the division of any county, it shall be provisional only, and shall not have effect unless confirmed by Parliament.

(3.) Where such order alters the boundary of a borough, it may, as consequential upon such alteration, do all or any of the following things:—increase or decrease the number of the wards in the borough, and alter the boundaries of such wards, and alter the apportionment of the number of councillors among the wards, and alter the total number of councillors, and in such case, make the proportionate alteration in the number of aldermen.

25.—(1.) Whenever a county council is satisfied that a *prima facie* case is made out as respects any county district not a borough, or as respects any district electoral division, for a proposal for all or any of the following things; that is to say—

Pastor alteration of county districts, and parishes, and wards, and future establishment of urban districts.
L. G. Act, 1888, s. 57.

- (a) the alteration or definition of the boundary thereof;
- (b) the division thereof or the union thereof with any other county district or districts, division or divisions, or the transfer of part of a district electoral division to another district electoral division;
- (c) the conversion of any county district or part thereof, if it is a rural district, into an urban district, and if it is an urban district, into a rural district, or the transfer of the whole or any part of any county district from one district to another, and the formation of new urban or rural districts;

*Boundaries
and
Adjustment.*

- (d) the division of an urban county district into wards; and
 (e) the alteration of the number of wards, or of the boundaries of any ward, or of the number of members of any district council, or of the apportionment of such members among the wards,

the county council may cause such inquiry to be made in the locality, and such notice to be given, both in the locality, and to the Local Government Board, or other Government department as may be prescribed, and such other inquiry and notices (if any) as they think fit, and if satisfied that such proposal is desirable, may make an order for the same accordingly.

(2.) Notice of the provisions of the order shall be given, and copies thereof shall be supplied in the prescribed manner, and otherwise as the county council think fit.

(3.) The order shall be submitted to the Local Government Board; and if within three months after such notice of the provisions of the order as the Local Government Board determine to be the first notice, the council of any district affected by the order, or any number of local government electors registered in that district or in any ward of that district, not being less than one-sixth of the total number of such electors in that district or ward, or if the order relates only to a district electoral division, any number of local government electors registered in that district electoral division, not being less than one sixth of the total number of such electors in that district electoral division, petition the Local Government Board to disallow the order, the Local Government Board shall cause to be made a local inquiry, and determine whether the order is to be confirmed or not.

(4.) If any such petition is not presented, or being presented is withdrawn, the Local Government Board shall confirm the order.

(5.) The Local Government Board, on confirming an order, may make such modifications therein as they consider necessary for carrying into effect the objects of the order.

(6.) An order under this Article when confirmed by the Local Government Board, shall be forthwith laid upon the table of both Houses of Parliament, if Parliament be then sitting, and, if not, forthwith after the then next meeting of Parliament.

*Supplemental
provisions as
to alteration of
wards.*
L. G. Act,
1888, s. 29.

26.—(1.) An order under the Act may make such administrative and judicial arrangements incidental to or consequential on any alteration of boundaries, authorities, or other matters made by the order as may seem expedient.

(2.) A place which is part of an administrative county for the purposes of the Act shall, subject as in section forty-five of the Act mentioned, form part of that county for all purposes, whether sheriff, lieutenant, custos rotulorum, justices, militia, coroner, or other.

(3.) For the purposes of parliamentary elections, and of the registration of voters for such elections, the sheriff, clerk of the peace, and council of the county in which any place is comprised at the passing of the Act for the purpose of parliamentary elections shall, save as otherwise provided by

the order, or by the Act, or by or in pursuance of the Registration (Ireland) Act, 1898, continue to have the same powers, duties, and liabilities as they would have had if no alteration of boundary had taken place.

(4.) Any order made in pursuance of this Order may, so far as may seem necessary or proper for the purposes of the order, provide for all or any of the following matters; that is to say,—

- (a) may provide for the abolition, restriction, or establishment, or extension of the jurisdiction of any local authority in or over any part of the area affected by the order, and for the adjustment or alteration of the boundaries of such area, and for the constitution of the local authorities therein, and may deal with the powers and duties of any council, local authorities, quarter sessions, justices of the peace, coroners, sheriff, lieutenant, custos rotulorum, clerk of the peace, and other officer therein, and with the costs of any such authorities, sessions, persons, or officers as aforesaid, and may determine the status of any such area as a component part of any larger area, and provide for the election of representatives in such area, and may extend to any altered area the provisions of any local Act which were previously in force in a portion of the area; and
- (b) may make temporary provision for meeting the debts and liabilities of the various authorities affected by the order, for the management of their property, and for regulating the duties, position, and remuneration of officers affected by the order and applying to them the provisions of the Act as to existing officers; and
- (c) may provide for the transfer of any writs, process, records, and documents relating to or to be executed in any part of the area affected by the order and for determining questions arising from such transfer; and
- (d) may provide for all matters which appear necessary or proper for bringing into operation and giving full effect to the order; and
- (e) may adjust any property, debts, and liabilities affected by the order.

(5.) Where an alteration of boundaries of a county is made by the Act, an order for any of the above-mentioned matters may, if it appears to the Local Government Board desirable, be made by that Board, but such order, if petitioned against by any council, grand jury, or local authority affected thereby, within three months after notice of such order is given in accordance with the Act, shall be provisional only, unless the petition is withdrawn or the order is confirmed by Parliament.

(6.) An order may be made for amending any order previously made in pursuance of the Act, and may be made by the same authority and after the same procedure as the original order.

(7.) Where a provision of the Act respecting an order requires the order to be confirmed by Parliament, either in every case or if it is petitioned against, such order may amend any local and personal Act.

General provision as to alteration of boundaries. L.G. Act, 1888, s. 60.
Determination of difference by Local Government Board. L.G. Act, 1888, s. 62 : 39 & 40 Vict. c. 5.
31 & 32 Vict. c. 119.
Adjustment of property and liabilities. L.G. Act, 1894, s. 68.

27. In every alteration of boundaries effected under the authority of the Act, care shall be taken that, so far as practicable, the boundaries of an area of local government shall not intersect the boundaries of any other area of local government.

28. Where the Local Government Board are required in pursuance of the Act to determine or arbitrate on any difference, the provisions of the Regulation of Railways Act, 1868, respecting arbitrations by the Board of Trade, and the enactments amending those provisions, shall apply as if they were herein re-enacted, and in terms made applicable to the Local Government Board and the decision of differences and matters under the Act.

29.—(1.) Where any adjustment is required for the purpose of the Act, or of any order or thing made or done under the Act, then if the adjustment is not otherwise made, the authorities interested may make agreements for the purpose, and may thereby adjust any property, income, debts, liabilities, and expenses, so far as affected by the Act or such order or thing, of the parties to the agreement.

(2.) The agreement may provide for the transfer or retention of any property, debts, or liabilities, with or without any conditions, and for the joint use of any property, and for payment by either party to the agreement in respect of property, debts, and liabilities so transferred or retained, or of such joint user, and in respect of the salary or remuneration of any officer or person, and that either by way of an annual payment or, except in the case of a salary or remuneration, by way of a capital sum, or of a terminable annuity for a period not exceeding that allowed by the Local Government Board: Provided that where any of the authorities interested is a board of guardians, any such agreement, so far as it relates to the joint use of any property, shall be subject to the approval of the Local Government Board.

(3.) In default of an agreement, and as far as any such agreement does not extend, such adjustment shall be referred to arbitration in manner provided by the Common Law Procedure Amendment (Ireland) Act, 1853, as amended by enactment, and the arbitrator shall have power to disallow as costs in the arbitration the costs of any witness whom he considers to have been called unnecessarily, and any other costs which he considers to have been incurred unnecessarily, and his award may provide for any matter for which an agreement might have provided.

(4.) Any sum required to be paid by any authority for the purpose of adjustment may be paid as part of the general expenses of exercising their duties under the Act, or out of such special fund as the authority, with the approval of the Local Government Board, direct, and if it is a capital sum the payment thereof shall be a purpose for which the authority may borrow under the Acts relating to such authority, on the security of all or any of the funds, rates, and revenues of the authority, and any such sum may be borrowed without the consent of any authority, so that it be repaid within such period as the Local Government Board may sanction.

34 & 35 Vict.
c. 132.

(5.) Any capital sum paid to any authority for the purpose of any adjustment under the Act shall be treated as capital, and applied, with the sanction of the Local Government Board, either in the repayment of debt or for any other purpose for which capital money may be applied.

Boundaries and Adjustment.
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Local Enquires and Provisional Orders by the Local Government Board.

Local Enquiries.
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30.—(1.) Where the Local Government Board are authorised by the Act to make any inquiry, to determine any difference, to make or confirm any order, to frame any scheme, or to give any consent, sanction or approval to any matter, or otherwise to act under the Act, they may cause to be made a local inquiry, and in that case, and also in a case where they are required by the Act to cause to be made a local inquiry, sections two hundred and nine, two hundred and ten, two hundred and twelve, and two hundred and thirteen, of the Public Health (Ireland) Act, 1878, shall apply as if they were in terms made applicable to the Act.

Application of provisions of 28 & 29 Vict. c. 55. as to local inquiries and provisional orders.
L.G. Act, 1888, s. 87 (1), (2), (5).

(2.) Sections two hundred and fourteen and two hundred and fifteen of the Public Health (Ireland) Act, 1878 (which relate to the making of provisional orders by the Local Government Board), shall apply for the purposes of the Act as if they were in terms made applicable thereto.

(3.) Where the Board cause any local inquiry to be held under the Act, the costs incurred in relation to such inquiry, including the salary of any inspector or officer of the Board engaged in such inquiry, not exceeding three guineas a day, shall be paid by the councils and other authorities concerned in such inquiry, or by such of them and in such proportions as the Board may direct, and the Board may certify the amount of the costs incurred, and any sum so certified and directed by the Board to be paid by any council or authority shall be a debt to the Crown from such council or authority.

Construction of Enactments.

Construction of Enactments.
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31.—(1.) All enactments in any Act, whether general or local and personal relating to any business, powers, duties, or liabilities transferred by or in pursuance of the Act from any authority to a county or district council, or guardians, or to any councils jointly, shall, subject to the provisions of the Act, and so far as circumstances admit, be construed as if—

Construction of Acts relating to business transferred.
L.G. Act, 1888 s. 78.

- (a) any reference therein to the said authority or to any committee or the foreman or a member thereof, or to any meeting thereof (so far as it relates to the business, powers, duties, or liabilities transferred) referred to the county or district council or guardians, or to a committee or the chairman or a member thereof, or to a meeting thereof, as the case requires, and as if
- (b) a reference to any clerk or officer of such authority referred to the secretary, clerk, or officer of a county or district council or guardians or committee thereof, as the case requires, and as if

*Construction
of
Enactments.*

(c) all reference to the fiat or other sanction of a judge of assize were omitted;

and all the said enactments shall be construed with such modifications as may be necessary for carrying the Act into effect.

(2.) Provided that the transfer of powers and duties enacted by the Act shall not authorise any county or district council or guardians or any committee or member thereof—

(a) to exercise any of the powers of a court of record; or

(b) to administer an oath; or

(c) to exercise any jurisdiction under the Summary Jurisdiction Acts, or perform any judicial business, or otherwise act as justices or a justice of the peace

but this enactment shall be without prejudice to the position of the chairman of the county council as justice of the peace during his term of office.

(3.) Where under any such enactment as in this Article mentioned any powers, duties, or liabilities are to be exercised or discharged after any presentment, or after taking an oath or affidavit, or in any particular manner, or at any particular assizes, sessions, or meeting, or subject to any other conditions, the county or district council or guardians may exercise and discharge those powers, duties, and liabilities without any such prior presentment, or after such oath or affidavit, or after taking a statutory declaration, or in a different manner, or at any meeting of the council or board, or without such other conditions, in manner provided by the Act, and any rules or regulations made in pursuance of the Act; and, subject thereto, shall exercise and discharge them in accordance with the rules regulating the proceedings of the council or guardians, but in the like manner, and at the like time, and subject to the like conditions, so nearly as circumstances admit; and a presentment by a grand jury in relation to any such powers, duties, or liabilities shall cease to be made otherwise than by way of indictment.

(4.) For the purposes of this Article the expression "authority" means any drainage board, commissioners, conservators, or public body, corporate or unincorporate, specified in a Provisional Order transferring any powers, duties, or liabilities to the county council, also any board grand jury or other local authority mentioned in the Act; and the expression "member of an authority" includes, where the authority are a grand jury, any member of a grand jury; and the expression "meeting of an authority" includes the assembly of a grand jury at assizes and a meeting of presentment sessions; and the expression "clerk of an authority" includes, in relation to any grand jury, the secretary of the grand jury.

Summary
proceedings
for determina-
tion of
questions as
to transfer
of powers.
L.I.A. Act,
1884, s. 75 (1)
(3.)

33.—(1.) If any question arises, or is about to arise, as to whether any power, duty, or liability is or is not transferred by or under the Act to any county or district council, or guardians, or any property is or is not vested in a county or district council, or guardians, that question, without prejudice to any other mode of trying it, may, on the application of the council

guardians, board, commissioners, or other authority concerned, be submitted for decision to the High Court in such summary manner as, subject to any rules of court may be directed by the Court; and the Court, after hearing each parties and taking such evidence (if any) as it thinks just, shall decide the question.

(2.) An appeal shall, with the leave of the High Court or Court of Appeal, but not otherwise, lie to the Court of Appeal against any decision under this Article.

*Construction
of
Enactments.*

*Proceedings and Committees of County and District Councils and
Chairman and Vice-Chairman thereof.*

*Proceedings,
Committees,
Chairman,
&c.*

33.—(1.) The council of every urban county district not a borough, shall hold an annual meeting and other meetings for the transaction of business under the Act once at least in each month, and at such other times as may be necessary for properly executing their powers and duties under the Act.

*Annual
meeting of
councils of
county and
district not
boroughs.*
L.G. Act,
1894, s. 35 (1);
3s & 39 Vict.
c. 55 s. 196,
Schab. I. (11).
M.C. Act,
1882, s. 61 (2).
(4).

(2.) The council of every county at large, and of every rural district, shall hold an annual meeting and also meetings at such other times as may be necessary for properly executing their powers and duties under the Act.

(3.) The annual meeting of an urban district council shall be held on the first day of December, and the annual meeting of a county or rural district council shall be held on the ninth day of May in each year.

(4.) The election of chairman and of vice-chairman shall be the first business transacted at such annual meeting.

(5.) In case of equality of votes at such election the chairman of the meeting, although not entitled to vote in the first instance, shall have the casting vote.

34.—(1.) This Article and the rules herein-after set out shall not extend to the council of a county borough, but shall extend to every other county council and to every rural district council.

(2.) The quorum of every such council shall be one-fourth of the whole number of the council.

(3.) The meeting of such council, or of any committee thereof, may be held at such place, either within or without their county or district, as the council from time to time direct.

(4.) Every such council may from time to time appoint, out of their own body, such and so many committees, either of a general or special nature, and consisting of such number of persons, as they think fit, for any purposes which, in the opinion of the council, would be better regulated and managed by means of such committees; but the acts of every such committee shall be submitted to the council for their approval.

*Meetings and
proceedings of
county and
rural district
councils,
appointment of
committees,
minutes, &c.*
L.G. Act,
1888, s. 73
(14) (21).
Munic. Corp.
Act, 1883,
s. 22.
L.G. Act,
1894, Schab. I,
Par. 4.

(5.) The quorum, proceedings, and place of meeting of a committee, whether within or without the county or district, and the area (if any) within which the committee are to exercise their authority, shall be such as may be determined by regulations of the council appointing the committee, and subject to

*Part 4 of First
Schedule to
L. G. Act,
1894.*

*Proceedings,
Committee,
Chairman,
&c.*

*Munic. Corp.
Act, 1893,
s. 22.*

those regulations, the quorum, proceedings, and place of meeting of a committee, whether within or without the county or district, shall be such as the committee direct, and the chairman at any meeting of the committee shall have a second or casting vote.

(6.) A member of the council shall not vote or take part in the discussion of any matter before the council, or of a committee, in which he has, directly or indirectly, by himself or by his partner, any pecuniary interest.

(7.) No act or proceeding of the council, or of a committee, shall be questioned on account of any vacancy in their body.

(8.) A minute of proceedings at a meeting of the council, or of a committee, signed at the same or the next ensuing meeting, by the chairman, or by a member of the council, or of the committee, describing himself as, or appearing to be, chairman of the meeting at which the minute is signed shall be received in evidence without further proof.

(9.) Until the contrary is proved, every meeting of the council, or of a committee, in respect of the proceedings whereof a minute has been so made, shall be deemed to have been duly convened and held, and all the members of the meeting shall be deemed to have been duly qualified; and where the proceedings are proceedings of a committee, the committee shall be deemed to have been duly constituted, and to have had power to deal with the matters referred to in the minutes.

(10.) The rules above mentioned are as follows:—

(I.) The council shall hold four quarterly meetings in every year for the transaction of general business.

*Second
Schedule of the
Municipal
Corporations
Act, 1882.*

(II.) The quarterly meeting shall be held at such hour on such days between the annual meeting and the first day of May then next following as, subject to the provisions of the Act, the council at the annual meeting in May decide or afterwards from time to time by standing order determine.

(III.) The chairman may at any time call a meeting of the council.

(IV.) If the chairman refuses to call a meeting after a requisition for that purpose, signed by five members of the council, has been presented to him, any five members of the council may forthwith, on that refusal, call a meeting. If the chairman (without so refusing) does not within seven days after such presentation call a meeting, any five members of the council may, on the expiration of those seven days, call a meeting.

(V.) Three clear days at least before any meeting of the council, notice of the time and place of the intended meeting, signed by the chairman, or if the meeting is called by members of the council, by those members, shall be fixed on the county hall or other place at which the council is accustomed to meet. Where the meeting is called by members of the council, the notice shall specify the business proposed to be transacted thereat.

(VI.) Three clear days at least before any meeting of the council, a summons to attend the meeting, specifying the business proposed to be transacted thereat, and signed by the secretary or clerk of the council shall be left or delivered by post at the usual place of abode of every member of the council.

(VII.) Want of service of the summons on any member of the council shall not affect the validity of a meeting.

*Proceedings,
Committee,
Chairman.
&c.*

(VIII.) No business shall be transacted at a meeting other than that specified in the summons relating thereto, except in case of the annual meeting, business prescribed by the Act to be transacted thereat.

(IX.) At every meeting of the council, the chairman, if present, shall be chairman. If the chairman is absent, then the vice-chairman shall be chairman. If both the chairman and the vice-chairman are absent, then such councillor as the members of the council then present choose shall be chairman.

(X.) The names of the members present as well as of those voting on each question shall be recorded, so as to show whether each vote given was for or against the question.

(XI.) All acts of the council, and all questions coming or arising before the council, may be done and decided by the majority of such members of the council as are present and vote at a meeting held in pursuance of the Act, the whole number present at the meeting, whether voting or not, not being less than one-fourth of the number of the whole council.

*Schedule I
(6) of
88 & 89 Vict.
c. 55; s. 20 (1)
of L. G. Act,
1924.*

(XII.) In case of equality of votes, the chairman of the meeting shall have a second or casting vote.

(XIII.) Minutes of the proceedings of every meeting shall be drawn up and fairly entered in a book kept for that purpose, and shall be signed in manner authorised by the Act.

(XIV.) Subject to an Order of the Lord Lieutenant in Council under the Act, and to the foregoing provisions of these Rules, the council may from time to time make standing orders for the regulation of their proceedings and business, and vary or revoke the same.

35.—(1.) The term of office both of the chairman and of the vice-chairman shall be one year, but he shall continue in office until his successor has accepted office, and made and subscribed the required declaration.

*Chairman and
vice-chairman
of council.
Munic. Corp.
Act, 1882,
s. 15 (3).
L. G. Act,
1928, s. 2 (6).*

(2.) Subject to any rules made from time to time by the county or district council, anything authorised or required to be done by, to, or before the chairman may be done by, to, or before such vice-chairman.

36.—(1.) Any county councils, including councils of county boroughs, may from time to time join in appointing out of their respective bodies a joint committee for any purpose in respect of which they are jointly interested.

*Appointment
of joint com-
mittees,
L. G. Act,
1928, ss. 41,
52(3).*

(2.) Any council taking part in the appointment of any joint committee under this Article may from time to time delegate to the committee any power which such council might exercise for the purpose for which the committee is appointed.

(3.) Provided that nothing in this Article shall authorise a council to delegate to a committee any power of making a rate or borrowing any money.

*Proceedings,
Committees,
Chairman,
&c.*
—

(4.) Subject to the terms of delegation, any such joint committee shall, in respect of any matter delegated to it, have the same power in all respects as the councils appointing it, or any of them, as the case may be.

(5.) The members of a joint committee appointed under the Act shall be appointed at such times and in such manner as may be from time to time fixed by the councils who appointed them, and shall hold office for such time as may be fixed by those councils so that such committee do not continue for more than three months after any triennial election of councillors of those councils.

(6.) The cost of a joint committee shall be defrayed by the councils by whom any members were appointed, in the proportion agreed to by them; and the accounts of such joint committee and their officers shall, for the purposes of the provisions of the Act, be deemed to be accounts of the county councils and their officers.

(7.) In the case of a joint committee the councils appointing the joint committee shall jointly have the powers given by this Order to each council in respect of a committee appointed by that council.

(8.) This Article shall apply to district councils inter se in like manner as to county councils.

S. 82 (3)
of the L.G.
Act, 1888.

*Transi-
tional Pro-
ceedings and
Savings.*
—

Power of
Local Govern-
ment Board
to remedy
defects.
L.G. Act,
1888, s. 108.
(1), (2), (4).

Transitional Proceedings and Savings.

37.—(1.) If from any cause there is no returning officer able to act in any county or district at the first election under the Act of a county or district council, or of guardians in a county borough or an urban county district, or no register of electors properly made up or no proper election takes place, or an election of an insufficient number of persons takes place, or any difficulty arises as respects the holding of the first election of county or district councillors, or of guardians in a county borough or an urban county district or as to the first meeting of a provisional council, or of a district council or board of guardians first elected under the Act, the Local Government Board may by order appoint a returning officer or other officer, and do any matter or thing which appears to them necessary for the proper holding of the first election and for the proper holding of the first meeting of the provisional council or of the said council or board, and may, if it appears to them necessary, direct a new election to be held, and fix the dates requisite for such new election. Any such order may modify the provisions of the Act, and the enactments applied by the Act, so far as may appear to the Board necessary for the proper holding of the first election and first meeting of the provisional council or of the said council or board.

(2.) The Local Government Board, on the application of a county or district council, or board of guardians, or provisional council, may within six months after the day fixed for the first election of the councillors of such council, from time to time, make such orders as appear to them necessary for bringing the Act into full operation as respects the council or board so applying and such orders may modify any enactment in the Act or in any other Act, whether general or local and personal, so far as may appear to the Board necessary for the said purpose.

(3.) The Local Government Board may also, if satisfied that an election cannot properly be held for any county or district council, or of guardians in a county borough or an urban county district by reason of the electoral divisions not having been duly made, cause such steps to be taken as they consider necessary for constituting such electoral divisions and making up the registers of electors.

*Transitional Pro-
ceedings
and Savings.*

38.—(1.) Every rate and cess made or apportioned before the appointed day may be assessed, levied and collected, and proceedings for the enforcement thereof taken, in like manner as nearly as may be as if the Act had not passed.

*Current rates, duty lists,
&c. L.G. Act,
1888, s. 110.*

(2.) The accounts of all receipts and expenditure before the appointed day shall be audited, and disallowances, surcharges, and penalties recovered and enforced, and other consequential proceedings had, in like manner as nearly as may be as if the Act had not passed but as soon as practicable after the appointed day; and every authority, committee, or officer whose duty it is to make up any accounts, or to account for any portion of the receipts or expenditure in any account, shall, until the audit is completed, be deemed for the purpose of such audit to continue in office, and be bound to perform the same duties and render the same accounts and be subject to the same liabilities as before the appointed day.

(3.) All proceedings, legal and other, commenced before the appointed day, may be carried on in like manner, as nearly as may be, as if the Act had not passed, and any such legal proceeding may be amended in such manner as may appear necessary or proper in order to bring it into conformity with the provisions of the Act.

(4.) Every militiaman enlisted before the appointed day shall continue liable to serve in the same corps as if the Act had not passed.

39. The change of name of an urban or rural sanitary authority shall not affect their identity as a corporate body or derogate from their powers, and any enactment in any Act, whether public or local, referring to the members of such authority, shall, unless inconsistent with the Act, continue to refer to the members of such authority under its new name.

*Change of
name of
authority.
L.G. Act,
1924, s. 85 (1).*

40.—(1.) The governors or directors of an asylum for pauper lunatics holding office on the day fixed for the first election of county councillors under the Act, shall continue to hold office until the expiration of one week after the county council have elected a committee for the like purpose and no longer.

*Transitory
provisions
as to lunatic
asylums.
L.G. Act, 1888,
s. 311 (1), (3)
(4), (5).*

(2.) Any committee elected by the county council shall come into office at the expiration of the said week, and shall be deemed to be a continuance of the said governors or directors.

(3.) Anything done in pursuance of the enactments relating to pauper lunatics by the said governors or directors before the appointment of any committee by the county council shall have effect as if it had been done by the county council or by a committee elected by the county council.

(4.) Where a lunatic asylum district comprises two or more counties, this Article shall apply in like manner as if the joint committee appointed by councils of such counties were the committee above mentioned.

*Transi-
tional Pro-
ceedings
and Savings.*

*Saving for
existing
securities
and discharge
of debts.*
L. G. Act, 1888,
s. 123.

41.—(1.) Nothing in the Act shall prejudicially affect any securities granted before the passing of the Act on the credit of any rate cove or property transferred to a council by the Act, and all such securities, as well as all unsecured debts, liabilities, and obligations incurred by any authority in the exercise of any powers or in relation to any property transferred from them to a council shall be discharged, paid, and satisfied by that council, and where for that purpose it is necessary to continue the levy of any rate or cess or the exercise of any power which would have existed but for the Act, that rate or cess may continue to be levied and that power to be exercised either by the authority who otherwise would have levied or exercised the same, or by the council as the case may require.

(3.) It shall be the duty of every authority whose powers, duties, and liabilities are transferred by the Act to liquidate, so far as practicable before the appointed day, all current debts and liabilities incurred by such authority.

*Savings for
existing
bylaws.*
L. G. Act,
1888, s. 123.

42. All such bylaws, orders, and regulations of any authority, whose powers and duties are transferred by or in pursuance of the Act to any council, as are in force at the time of the transfer, shall, so far as they relate to or are in pursuance of the powers and duties transferred, continue in force as if made by that council, and may be revoked or altered accordingly.

*Saving for
pending
action,
contracts,
&c.*
L. G. Act,
1888, s. 124.

43.—(1.) If at the time when any powers, duties, liabilities, debts, or property are, by or in pursuance of the Act, transferred to a council, any action or proceeding or any cause of action or proceeding is pending or existing by or against any authority in relation thereto, the same shall not be in anywise prejudicially affected by the passing of the Act, but may be continued, prosecuted, and enforced by or against the council as successors of the said authority in like manner as if the Act had not been passed.

(2.) All contracts, deeds, bonds, agreements, and other instruments subsisting at the time of the transfer in this Article mentioned, and affecting any of such powers, duties, liabilities, debts, or property, shall be of as full force and effect against or in favour of the council, and may be enforced as fully and effectually as if, instead of the authority, the council had been a party thereto.

(3.) All contracts or agreements which prior to the appointed day have been made by the secretary of the grand jury or any grand juror or commissioners or otherwise, on behalf of a county or any barony or part of a county, shall have effect as if the council of that county had been named therein instead of the secretary, grand juror, or commissioner, and may be enforced by or against the county council accordingly.

(4.) This Article shall apply in the case of a committee of any authority in like manner as if the committee were such authority, and the committee of a county council were that council, and as if contracts and agreements by any such committee appointed by a grand jury were contracts or agreements on behalf of a county.

*COPY of a Report of an Order in Council,
under Chapter II of the Local Government
(Ireland) Bill,*

(Mr. Donald Maclean.)

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